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April 13, 2001

David Waddell
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

Re: *Universal Service Generic Contested Case*
Docket 97-00888

Dear David:

Please accept for filing the original and thirteen copies of the Motion to Accept Late Filed Comments and the comments of MCI WorldCom Communications, Inc. ("WorldCom"), XO Tennessee, Inc. ("XO") and Time Warner Telecom of the Mid-South, LP ("Time Warner") in the above-captioned proceeding.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: *Jon E. Hastings* by *wcm.*
Jon E. Hastings *w/permission*

JEH/wlm

**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

IN RE: *Universal Service Generic Contested Case*
 Docket No. 97-00888

MOTION TO ACCEPT LATE FILED COMMENTS

MCI WorldCom Communications, Inc. ("WorldCom"), XO Tennessee, Inc. ("XO"), and Time Warner Telecom of the Mid-South, LP ("Time Warner"), respectfully petitions the Authority to accept the attached late filed comments in the above-captioned proceeding. WorldCom, XO and Time Warner inadvertently missed the deadline for filing comments on additional issues requested by the Authority on February 21, 2001.

Respectfully submitted,

By: Jon E. Hastings by WCM
Jon E. Hastings *w/permission*
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**BEFORE THE TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

April 13, 2001

IN RE: *Universal Service Generic Contested Case*
 Docket No. 97-00888

ORDER

For good cause shown, the Authority finds that MCI WorldCom Communications, Inc. (“WorldCom”), XO Tennessee, Inc. (“XO”) and Time Warner Telecom of the Mid-South, LP (“Time Warner”) are entitled to file late-filed comments in the above-captioned proceeding. The motion is therefore GRANTED.

Chairman

ATTEST:

Executive Director

BEFORE THE TENNESSEE REGULATORY AUTHORITY
Nashville, Tennessee

In re: <i>Universal Service Generic</i>)	
)	
<i>Contested Case</i>)	
)	

Docket No. 97-00888

COMMENTS OF WORLDCOM, XO AND TIME WARNER

At the February 21, 2001 Agenda Conference, the Directors requested Comments on certain issues related to the provision of universal service in Tennessee. MCI WorldCom Communications, Inc. ("WorldCom"), XO Tennessee, Inc. ("XO") and Time Warner Telecom of the Mid-South, LP ("Time Warner"), hereby files comments in response to that request.

Accounting for the Interstate Access Universal Service Fund Support Amounts

The question posed by the Directors was whether monthly per line support amounts received by the ILECs from the universal service program established in the CALLS Order should be included as revenue determining the ILECs' need for state universal service support.¹

The size of the fund should certainly take into consideration the dollars flowing to the incumbents from all federal universal service support mechanisms, including the interstate access universal service fund created by the FCC in the CALLS Order. In its March 14, 2000, Comments, BellSouth indicated that is was receiving approximately \$0.23 per residential and single line business access line per month in UNE rate zone 2 and \$1.42 per line per month in UNE rate zone 3 from this fund for the fourth quarter of 2000. According to USAC reports, United is receiving approximately \$4.26 per month for each residential and single line business access line in UNE rate zone 4 and \$3.80 per multiline business access line in UNE rate zone 4.²

¹ *Sixth Report and Order in CC Docket Nos. 96-262 and 94-1; Report and Order in CC Docket No. 99-249; Eleventh Report and Order in CC Docket No. 96-45*, Before the Federal Communications Commission, adopted May 31, 2000.

² *Federal Universal Service Support Mechanisms Supplemental Report Regarding Fund Size Projections and Contribution Base for the Fourth Quarter of 2000*, Universal Service Administrative Company, October 2000.

associated funding obligation that will ultimately be borne by Tennessee's citizens. Confining state USF support to primary residential lines also targets the funding needs of the state to those customers and those services that are critical to the citizens' involvement in the economic and social fabric of the community. According to the Act, universal service support funds should be targeted to services that "are essential to education, public health, or public safety." §254(c)(1). Providing support for services offered over access lines serving second homes or access lines used for dial-up Internet access or fax services does not meet the requirements of the Act and should not be supported.

In its March 14, 2001, Comments, BellSouth urges the Authority to expand the focus of its state universal service efforts to provide support to non-primary residential lines. Non-primary residential lines are generally intended to be used exclusively for dial-up internet access and for faxes rather than as a means to access the core services for which universal service support is intended. It makes no policy sense to subsidize access to 911 services, operator services, interexchange services directory assistance, white page directories and to other core services on access lines that are used exclusively for accessing the customers' local ISP and or sending and receiving faxes. If adopted, BellSouth's proposal will raise the cost of universal service in Tennessee without a comparable increase in the public welfare. For all of these reasons, BellSouth's proposal to extend state universal service support to non-primary residential lines should be denied.

Support for Advanced Services

The Directors have asked for comments on whether the Tennessee state universal service fund under consideration in this proceeding should provide support for the delivery of advanced services.

The state USF should not support the delivery of advanced services for the following reasons. Advanced services do not meet the requirements of the 1996 Act for inclusion into the list of core services. Section 254(c)(1) of the Act states that the FCC, in establishing the defining of services that are supported by federal universal service support mechanisms, shall consider the extent to which such telecommunications services:

- (A) are essential to education, public health, or public safety;
- (B) have, through the operation of market choices by customers, been subscribed to by a substantial majority of residential customers;

- (C) are being deployed in public telecommunications networks by telecommunications carriers; and
(D) are consistent with the public interest, convenience and necessity.

In light of these instructions, the FCC has not yet determined that advanced services should be added to the list of supported services.⁴ Second, in its most recent examination of the deployment of advanced services, the FCC concluded that “advanced telecommunications capability is being deployed in a reasonable and timely manner.”⁵ Advanced Services Report at 2. Thus after extensive data collection and analysis, the FCC concluded that continued pursuit of policy initiatives already underway would be sufficient to meet the advanced services objectives of the Act.

More recently, the CECA Forum, after a six-month industry-wide investigation concluded that advanced services should not be added to the list of supported services at this time.⁶ Lastly, BellSouth stated in its March 14, 2001, comments that it is “aggressively pursuing the deployment of these [advanced] services in Tennessee based on market demand.” BellSouth’s statement confirms the policy determinations of the FCC, other state regulators and industry observers that advanced service capability is being deployed in a timely manner given economic conditions, and that outright universal services subsidies are not needed to continue or to accelerate that deployment.

Respectfully submitted,

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Attorney for WorldCom

⁴ Nor has any state targeted advanced services for support from a state universal service program.

⁵ *Deployment of Advanced Telecommunications Capability: Second Report*, Federal Communications Commission, August 2000. (“Advanced Services Report”).

⁶ *Universal Service: Policy Issues for the 21st Century*, Consumer Energy Council of America, Draft Report, March 2001.

Dana Shaffer by WLM w/permission

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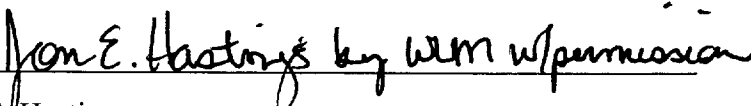
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via U.S. Mail, postage prepaid, to the following on this the 13th day of April, 2001.

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